

New Jersey State Tax news

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from the director's desk

Practitioners' E-File Mandate

All practitioners (firms and individuals) who prepared 200 or more 2004 New Jersey income tax resident returns are required to use one of the three NJ FastFile options — NJ WebFile, NJ TeleFile, or NJ E-File — to file 2005 New Jersey income tax resident returns for their clients. Practitioners who filed fewer than 200 New Jersey resident returns in 2004 are not required to file electronically for the 2005 tax year, but are strongly encouraged to do so.

A [list](#) of links to materials relating to this requirement appears on page 11.

Streamlined Sales and Use Tax

Current information about the effect of the Streamlined Sales and Use Tax Agreement on New Jersey's sales and use tax is available at:

[Streamlined Sales and Use Tax Legislation and Notices](#)

[Streamlined Sales and Use Tax Registration, Amnesty, and Program Information](#)

We will be updating the information on an ongoing basis. A [list](#) of links to the materials that have already been published appears on page 6.

What's New for Tax Year 2005

There have been some important changes affecting the preparation of New Jersey income tax returns and instructions this year:

Income Tax

- **Form NJ-1040EZ discontinued** — The NJ-1040EZ resident return form has been discontinued. Taxpayers who need to file a paper return must use Form NJ-1040.
- **Sign Form NJ-1040 on Page 1** — The signature section of the 2005 New Jersey resident income tax return has been moved. Taxpayers now sign the return at the bottom of the first page.
- **Dependents' Information** — Taxpayers must list the full name, social security number, and birth year of each dependent child or other dependent claimed on their New Jersey resident return. Taxpayers who qualify for a New Jersey earned income tax credit must also provide this information for any "qualifying child" listed on the Federal Schedule EIC who is not claimed as a dependent for New Jersey purposes.
- **Health Enterprise Zone Deduction** — Taxpayers who provide "primary care" medical and/or dental services at a qualified practice located in or within five miles of a Health Enterprise Zone may be eligible for a deduction.
- **Underpayment of Estimated Tax** — Taxpayers who owe interest for failing to pay the required amount of estimated tax now report the interest amount on a separate line of the New Jersey resident and nonresident income tax returns.

- **NJ TeleFile** — Taxpayers can use NJ TeleFile if their interest income and dividend income are each less than \$10,000. The limit in each category was increased from \$2,500.

- **Credit for Taxes Paid to Other Jurisdictions** — The Philadelphia nonresident wage tax rate for 2005 is .038197.

- **IRC Section 199 Deduction** — New Jersey has uncoupled from many provisions of IRC Section 199. The New Jersey allowable IRC Section 199 deduction should be taken into consideration in calculating the gain or loss on disposition of applicable property.

The New Jersey adjustments affect the determination of income in the categories net profits from business; net gains or income from disposition of property; net gains or income from rents, royalties, patents, and copyrights; income from estates or trusts; distributive share of partnership income; and net pro rata share of S corporation income.

- **Retirement Income Exclusions** — The pension and other retirement income exclusions are limited to use by taxpayers with gross income of \$100,000 or less (before subtracting any pension exclusion).
- **Extension of Time to File** — An extension of time to file the New Jersey income tax return will be granted for a single, 6-month period, provided all requirements are met. □

New Jersey State Tax news

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www.state.nj.us/treasury/taxation/publnews.htm

Subscribe to *NJ Tax E-News* on our Web site to be notified when new issues become available.

This publication is designed to keep taxpayers, tax practitioners, and the general public informed of developments, problems, questions, and matters of general interest concerning New Jersey tax law, policy, and procedure. The articles in this newsletter are not designed to address complex issues in detail, and they are not a substitute for New Jersey tax laws and/or regulations.

Division of Taxation Director:
Robert K. Thompson

News Coordinators for This Issue:

<i>Compliance</i>	Marita Sciarrotta
<i>Crim. Investigation</i>	Richard Mawer
<i>Property Admin.</i>	Holly Reinson
<i>Technical Services</i>	Beth Chambers
<i>Legislation</i>	Geoffrey Marsh

Contributors: William J. Bryan III, Toni Bushelli, Maryann Cortina, Dana Frederickson, Barry Fulmer, Arthur J. Guenther, Elizabeth J. Lipari, Suzanne Miller, Patrick J. Ryan, and Carol M. Trovato.

Staff: J. Donald Byrnes, Lauren D. Higgins, Maria E. Likakis, Terry A. McWilliams, Sara E. Murphey, Kelly J. Warboys.

Editor: Sheri B. Silverstein

**GROSS INCOME TAX****Estimated Payment Verification**

Taxpayers who need to verify the amounts of their New Jersey estimated tax payments and credits to complete their 2005 gross income tax returns can review their payment history on the Division of Taxation's Web site. Payment information is available for tax years 2004 through 2006 for individuals, both resident and nonresident, and estates and trusts.

To obtain an estimated payment statement of account taxpayers need the following:

- Social Security Number (Federal Identification Number for estates or trusts)
- Date of Birth (Estates or trusts use either the date of the decedent's death or the date the trust was created)

- Amount of refund or balance due from the taxpayer's 2004 New Jersey income tax return

Taxpayers whose filing status is "Married, filing joint return" must use the social security number and date of birth of the spouse who is listed first on their estimated payment voucher (Form NJ-1040-ES) or last year's New Jersey income tax return to obtain their account information.

A 2004 New Jersey income tax return must be on file for a taxpayer to use the online inquiry. If the taxpayer did not file a 2004 return or needs to verify payments or credits for tax years prior to 2004, the Division's Customer Service Center has representatives available at 609-292-6400 to provide assistance during normal business hours.

To access the estimated payment inquiry visit the Division's Web site at: www.state.nj.us/treasury/taxation/online.htm and choose "Gross Income Tax Estimated Payments Statement of Account." □

- **CD-ROM Version (\$15.00)** — Tax forms and instructions plus various tax information publications such as *New Jersey State Tax News*, *Division of Taxation Annual Report*, etc.

- **3-Ring Binder (\$10.00)** — Standard 3-ring binder to hold printed version. (Binder does not include printed version of *Package NJX*, which must be purchased separately.)

Anyone who purchased *Package NJX* materials last year received a notice from the Division of Taxation that contains instructions for ordering online as a "Registered User." Those who did not order last year and who want to purchase 2005 *Package NJX* materials should follow the instructions for "New User."

[Order 2005 Package NJX](#) □

LOCAL PROPERTY TAX**PAMS**

On behalf of the Division of Taxation, I would like to extend my appreciation to the following assessors, collectors, and county tax administrators who volunteered their time for the PAMS (Property Assessment Management System) Gap/Fit Analysis Sessions. Their enthusiasm, dedication, and contributions to these sessions have been invaluable to the success of the project.

Assessors: Frank Bucino, Ron Fijalkowski, David Gill, Tom Glock, Gil Goble, Bernie Haney, Patricia Hice, Burnham Hobbs, Maureen Kaman, Mike Kane, Edwin Kay, Joan Koziensky, Matcene Hopkins Kubler, Anthony

Interest 10.00%

The interest rate assessed on amounts due for the period January 1, 2006 – December 31, 2006, will be 10.00%.

The assessed interest rate history is listed below.

Effective Date	Interest Rate
10/1/01	9.00%
1/1/02	8.00%
1/1/03	7.25%
1/1/04	7.00%
1/1/05	8.00%
10/1/05	9.50%
1/1/06	10.00%

Order Package NJX Online

The 2005 *Package NJX* can be ordered online through our automated ordering and payment system. Payment must be made by electronic check (e-check).

Three *Package NJX* products are being offered for 2005:

- **Printed Version (\$25.00)** — Reproducible tax forms and instructions printed on loose-leaf pages that are hole-punched to fit a standard 3-ring binder.



PAMS - from page 3

Winter 2005

Leone, Mary Mastro, Chuck Palumbo, Marie Procacci, Joe Ravitz, Don Seifrit, Denise Siegel, and Marcia Sudano.

Collectors: Kristine Blanchard, Maureen Cosgrove, Carl Dileo, Jack Early, Bonnie Fleming, Cindy McBride, Bruce MacLeod, Suzanne Olha, Margie Saharic, and Elaine Urion.

County Tax Administrators: Matt Clark, Chris Duryee, Tom Estathiou, Lois Finifter, Marty Guhl, Kelly Heppe, Bill Linville, Melissa Pritchett, and Ozzie Vituscka.

The implementation of PAMS is continuing on schedule. For information about the PAMS project, including upcoming meetings, project history, and the latest news, visit the Division of Taxation's Web site at: www.state.nj.us/treasury/taxation/pamsvol/pams.htm

Volunteers from the assessor, collector, and county tax administration communities will be participating in upcoming Gap/Fit sessions on topics such as conversion, interfaces, and reports. I look forward to their continued commitment to and involvement in the PAMS project.

Robert K. Thompson
Director □

CONFERENCE AND APPEALS

Branch Moves to Bordentown

The Division of Taxation's Conference and Appeals Branch has moved to Bordentown from Mercerville. The new office is located at:

INTERCHANGE 7 BUSINESS PARK
TWO ADVANTAGE COURT, 2ND FLOOR
BORDENTOWN, NJ 08505-9630

Phone: 609-291-7854

Fax: 609-324-4094

For driving directions and additional information, visit our Web site at: www.state.nj.us/treasury/taxation/organization/confappl.htm □

How to Get Your NJ Income Tax Refund **FASTER!**

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Fill out the NJTeleFile worksheet in your tax packet. Then, use a Touch-tone phone to call our toll-free number to file your return.

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Use your computer to file your return.

Visit www.njfastfile.com to prepare your return on our secure Internet site. There's nothing to buy and there are no filing fees.

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See a tax preparer to have your income tax return filed electronically. You can also do it yourself through an online tax preparation Web site or off-the-shelf tax software.

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LOCAL PROPERTY TAX ***Tax Assessor Certificates***

The Tax Assessor Examination is held in accordance with the Assessor Certification and Tenure Act, requiring anyone taking office as a tax assessor after July 1, 1971, to hold a tax assessor certificate.

Fifteen persons passed the September 24, 2005, C.T.A. exam and received Tax Assessor Certificates dated January 1, 2006. They are:

Burlington County: Robin L. Bucchi, Mansfield Township; Joseph C. Rahman, Maple Shade Township; Amanda L. Scholtz, Tabernacle Township.

Camden County: Craig H. Zeyher, Haddonfield Borough.

Cape May County: Megan A. McAfee, Upper Township.

Cumberland County: David E. Tannehill, Millville City.

Essex County: Kevin M. Esposito, Nutley Township.

Hudson County: Bennie G. Anderson, Jersey City.

Monmouth County: Shelly A. Maddocks, Spring Lake Heights Borough.

Morris County: Peter A. Hodges, Montville Township.

Ocean County: Justin L. Lamicella, Dover Township.

Somerset County: John F. Guerrera, Somerville Borough.

Union County: Roberto Franco, Roselle Borough.

State of Connecticut: Eugenia H. Flynn, Tolland County, Town of Tolland.

Commonwealth of Pennsylvania: Paul H. Jacobs, Chester County, West Whitehead Township. □

LOCAL PROPERTY TAX ***Tax Assessor Exam***

New Jersey Tax Assessor Certificates are granted to those who successfully pass the certification examination, which is offered twice a year, in March and September.

The March certified tax assessor examination will be held on Saturday, March 25, 2006. The deadline for filing applications for the examination was February 23, 2006.

The September examination is scheduled for Saturday, September 30, 2006, and the deadline to file applications is August 31, 2006.

To obtain an application for the assessor certificate examination, write to Gary R. DalCorso, PO Box 251, Trenton, NJ 08695-0251 or call 609-292-7813. The application is also available on our Web site at: www.state.nj.us/treasury/taxation/pdf/lpt/ac_1.pdf

A fee of \$10 must accompany the completed application. □

LOCAL PROPERTY TAX ***Tax Assessors' Calendar***

January 1–

- Hearings of added and omitted assessment appeals completed by County Tax Board.
- One copy of Farmland Assessment applications, FA-1s, sent to County Tax Administrator by assessor.

January 10 (before)–

- Taxpayer to give assessor notice of depreciation to structure occurring after Oct. 1 and before Jan. 1.

January 10–

- Copies of Initial Statement and Further Statement filed with County Tax Board by assessor.
- Assessment List and duplicates filed with County Tax Board by assessor.
- Duplicate copy of municipal tax map filed with County Tax Board by assessor.
- Two copies of Form SR-3A filed with County Tax Board by assessor.
- Estimated total amount of approved veteran and property tax deductions filed with County Tax Board by assessor.
- Assessor to provide Forms CNC-1 and CNC-2, assessed value of new construction/improvements, local municipal purpose rate, and allowable municipal budget cap increase, to County Tax Administrator.
- Assessor to file "U.E.Z. Exemption Report" with County Tax Board.

January 25–

- Assessor to give schedule of hours and appointment availability to County Tax Administrator and post in the municipal building.

February 1 (prior)–

- Notices of current assessment and preceding year's taxes mailed to each taxpayer by assessor.

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assessors' calendar - from pg. 5

February 1–

- After February 1, the assessor or County Tax Board to notify each taxpayer by mail within 30 days of any change to the assessment. A taxpayer will have 45 days to file an appeal upon issuance of a notification of a change in assessment.
- MOD IV Master file sent to Property Administration via appropriate medium.

- Assessors' office hours furnished to Director, Division of Taxation, by County Tax Administrator.

- Collector to forward Annual Post-Tax Year Statement (Form PD-5) to recipients of prior year's property tax deduction.

February 10–

- Certification by assessor filed with the County Tax Board or, if completed by County Tax Board, filed with the County Administrator, "within 10 days" of the

date the bulk mailing of notifications of assessment completed.

February 15 (on or before)–

- County Tax Administrator to forward FA-1 forms to Property Administration in district order.

March 1–

- Post-Tax Year Statement, PD-5, filed with tax collector by all recipients of property tax deduction.
- County Tax Administrator to submit equalization table to County Tax Board; each assessor; Division of Taxation; Director, Local Government Services; and post a copy at the courthouse.

March 10 (before)–

- Equalization table hearings completed by County Tax Board.

March 10–

- Confirmed equalization table sent by County Tax Board to each taxing district in the county, to the Director of the Division of Taxation, to the Tax Court, and two copies to the Director of the Division of Local Government Services. □

Streamlined Sales and Use Tax Legislative Changes

P.L. 2005, c.126, effective October 1, 2005, conformed the New Jersey Sales and Use Tax Act to the Streamlined Sales and Use Tax Agreement. The legislation affects the administration of New Jersey's sales and use tax in a number of areas. More information is available at:

[Notice: NJ Sales Tax Exemption for Drugs and Medical Equipment](#)

[Streamlined Sales and Use Tax Law: Motor Vehicle Leasing Issues](#)

[Notice: Rental of Equipment With An Operator](#)

[Summary of Changes in Tax Base for Motor Vehicle Lease Transactions](#)

[Notice: Sales And Use Tax Exemption for Clothing](#)

[Notice: New Jersey Enacts Streamlined Sales and Use Tax Agreement Legislation](#)

[Notice: Changes in the Sales and Use Tax Act Affecting the Sales of Food and Food Products](#)

[Notice on Leases and Rentals of Tangible Personal Property](#)

[Notice to the Direct Mail Industry](#)

[Notice to Retailers of Fur Clothing](#)

[SSTA DRAFT Proposed New Rules: N.J.A.C. 18:XX](#)

[Certificate of Mailing and Service](#)

[Streamlined Sales and Use Tax Agreement Response Letter](#)

[Streamlined Sales Tax Petition](#)

[Streamlined Sales and Use Tax Registration, Amnesty, and Program Information](#)

If you have questions concerning the streamlined sales and use tax legislation, [e-mail](mailto:streamlined@tax.state.nj.us) us at: streamlined@tax.state.nj.us

Criminal Enforcement

Criminal Enforcement over the past several months included:

- On July 15, 2005, in Superior Court – Monmouth County, Freehold, New Jersey, Norman Levine, 60, of Barnegat, New Jersey, was sentenced to two and one-half years' probation, fined \$305, and ordered to pay to the Division of Taxation restitution in the amount of \$17,858 in cigarette tax and sales tax pursuant to

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criminal enforcement - from page 6

his guilty plea on July 12, 2004, to one count of possession of untaxed cigarettes. The Division of Taxation's Office of Criminal Investigation (OCI) had arrested Levine after an investigation identified Levine as the recipient of untaxed cigarettes by way of a FedEx shipment from Virginia. Levine appeared in court in Maryland on December 12, 2003, in a case stemming from a previous arrest. Immediately after pleading guilty to a felony count of transportation/possession of contraband cigarettes, Levine was followed by agents of the Maryland Comptroller of the Treasury to Virginia and North Carolina where they observed him purchasing cigarettes again and shipping them from Virginia Beach to a New Jersey business. OCI surveillance led to the arrest of Levine after he took possession of the cigarettes and was placing them in a storage unit in Neptune Township. Levine was actively engaged in a mail-order cigarette business with an Internet site. A total of 754 cartons of contraband cigarettes were seized; 457 cartons were in the delivery that had been observed, and the remainder were found in his storage unit. A combination of Delaware tax stamped, Virginia tax stamped, and unstamped cigarettes (from North Carolina) were seized along with \$2,138 in cash and a 1998 Mercury, which has been forfeited to the State.

- On July 20, 2005, in Teaneck Municipal Court, Xiu Ming Liu, 32, of Bergenfield, New Jersey, entered a plea of guilty to one

count of sale of untaxed cigarettes at Fook Yong Restaurant, Teaneck, New Jersey. Liu was charged after a joint investigation by OCI and the Teaneck Police Department in which a confidential informant purchased untaxed cigarettes from Liu. Pursuant to her guilty plea, Liu was fined \$1,155. At the same time, Jin Gui Li, the owner of Fook Yong Restaurant, pled guilty to possession of untaxed cigarettes and engaging in the purchase of untaxed cigarettes without a license. Although the maximum fine for each of these offenses is normally \$1,000, Li was fined double that amount, or \$4,000, as provided by law because Li has a prior conviction for possession of untaxed cigarettes.

- On July 28, 2005, in Newark Municipal Court, Elvis M. Manjarraz, 36, of Newark, was charged with transportation of untaxed cigarettes as a result of a cooperative investigation with U.S. Customs and Border Protection that resulted in the seizure at Newark Liberty International Airport of 50 cartons of cigarettes which Manjarraz was attempting to smuggle from Ecuador.
- On August 3, 2005, in Woodbury Municipal Court, cigarette retail dealer Bhupendra Shah, 45, of East Greenwich Twp., New Jersey, pled guilty to selling cigarettes without a license at his store, Woodbury Food & News, Woodbury, New Jersey, in May 2005. Shah was fined \$658. Prior to the plea and sentencing, Shah satisfied sales tax delinquencies which had caused the Division to withhold renewal of his cigarette retail dealer license as part of the

enforcement initiative known as the License Suppression Project. In the same Court session, cigarette wholesale dealers Klein Candy Co. of Wilkes-Barre, Pennsylvania, and Allen Brothers Wholesale Distributors, Inc., of Philadelphia each pled guilty to one count of selling cigarettes at wholesale to Shah, a person not licensed as a retailer at the time of the transactions. The two wholesalers were each fined \$700. The Shah case was the result of a referral from the Division of Taxation's Audit Activity as part of the Division's comprehensive cigarette tax enforcement program, which includes field audits of selected cigarette vendors.

- On August 17, 2005, Ramoni Mustapha, 50, of Newark; Blessing Iwarimie, 35, of Elizabeth; and Gladys Soto, 31, of Linden, were indicted by a State Grand Jury on charges of conspiracy and theft by deception. Mustapha, a self-employed tax preparer, fraudulently received hundreds of New Jersey earned income tax credit checks for tax years 2001, 2002, and 2003, filed from February 2004 through March 2005. As a result of the fraudulent filings, 401 earned income tax credit (EITC) refund checks totaling \$265,397 were obtained by Mustapha. The indictment further charges that Iwarimie and Soto, tellers at Bank of America, cashed the EITC refund checks obtained by Mustapha in exchange for a portion of the proceeds. Mustapha was arrested on April 15, 2005, at his Orange office. A search of his office

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pursuant to a search warrant resulted in the seizure of tax returns, various tax documents and records, computer systems, false/fraudulent credit cards and identification documents, and related evidence. Each defendant faces up to 20 years in State prison and fines of up to \$300,000 upon conviction of the second-degree charges. This is a joint investigation by OCI and the New Jersey Division of Criminal Justice-Financial Crimes Bureau.

- On August 24, 2005, an indictment was unsealed charging Brenda McGinty and her sister, Toni Carlisi, both residents of the Commonwealth of Pennsylvania, with one count of theft by deception, three counts of failure to file New Jersey gross income tax returns, and three counts of failure to pay New Jersey gross income tax. The subjects were indicted by a State Grand Jury in Mercer County on November 17, 2004. The indictments arose from a joint investigation with the Mercer County Prosecutor's Office which determined that Brenda McGinty, the bookkeeper for a Mercer County business, embezzled \$1,085,457.50 during

the years 2001, 2002, and 2003. It was also determined that, during those three years, she wrote checks to her sister, Toni Carlisi, which totaled \$979,789. Neither individual filed New Jersey non-resident income tax returns reporting the illegal income. The amount of New Jersey gross income tax evaded for the three-year period by Brenda McGinty was \$62,812.93 and the amount evaded by Toni Carlisi was \$51,064.91.

- On August 31, 2005, in Superior Court – Mercer County, Trenton, New Jersey, Thomas Boller, 42, of Denville, New Jersey, waived his right to indictment by grand jury and entered a guilty plea to an accusation charging him with one count of filing fraudulent New Jersey gross income tax returns for tax years 1997 through 2000 and one count of failing to pay New Jersey gross income tax. Upon entry of the plea, Boller was sentenced to five years' probation, and was ordered to pay restitution to the State of gross income tax in the amount of \$158,496.99 and penalty and interest in the amount of \$109,378.30, for a total restitution of \$267,875.29. The case was initiated by the Money

Laundering Task Force of the New Jersey Division of Criminal Justice based on Boller's gambling history in Atlantic City. A joint investigation by OCI, the Division of Criminal Justice-Casino Prosecutions Bureau, and the Internal Revenue Service-Criminal Investigation Division established that Boller had underreported revenue and misclassified expenses of API Systems Inc., a computer services firm that Boller owns. The case was prosecuted by the State Office of the Attorney General.

- On September 6, 2005, in Superior Court – Salem County, Salem, New Jersey, Jaswinder S. Dhillon, currently a resident of Henderson, Nevada, who on June 20, 2005, pled guilty to a charge of failing to file motor fuels tax returns, was sentenced to four years' probation and ordered to pay restitution to the State of \$70,000 in motor fuels tax. He had been indicted on February 2, 2005, by a Salem County Grand Jury on three criminal charges as a result of an investigation which established that Dhillon, the principal of MJS Truck Plaza Inc. in Carneys Point, New Jersey, failed

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Enforcement Summary Statistics Third Quarter 2005

Following is a summary of enforcement actions for the quarter ending September 30, 2005.

• Certificates of Debt:		• Jeopardy Seizures	0
Total Number	3,098	• Seizures	56
Total Amount	\$41,679,133	• Auctions	3
• Jeopardy Assessments	236	• Referrals to the Attorney General's Office	202

For more detailed enforcement information, visit our Web site at:

www.state.nj.us/treasury/taxation/jdgdiscl.htm



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to file tax returns and remit motor fuels tax he collected from customers as a trustee for the State. Dhillon closed his truck stop on July 31, 2000, and failed to turn over the entrusted tax dollars he had collected for June and July 2000, the last two months of business. The matter was investigated by OCI and prosecuted by the Salem County Prosecutor's Office.

- On September 9, 2005, Anthony Murphy, 49, of West Orange, New Jersey, was sentenced to repay more than \$25,500 after pleading guilty to fraudulently misrepresenting that he and his family were qualified for Medicaid benefits. Essex County Superior Court Judge Michael Ravin ordered him to pay more than \$25,590 in restitution and to serve two concurrent one-year probation terms. Judge Ravin clarified that Murphy will serve probation until the restitution has been paid back in full. On June 29, 2005, Murphy pled guilty to a criminal accusation filed by the Division of Criminal Justice. The accusation charged Murphy with Medicaid fraud and failure to pay income taxes. At the guilty plea hearing, Murphy admitted that between May 30, 2001, and March 30, 2004, he wrongfully obtained more than \$16,000 in health benefits from the Medicaid Program. Murphy admitted that he applied for FamilyCare for himself, his wife, and his three children by falsely advising the Division of Medicaid Assistance and Health Services that he did not have health insurance through his employment and could otherwise not afford health coverage.

Murphy further admitted that he is a self-employed contractor and the owner of A. Murphy Contracting. A joint investigation with the Division of Criminal Justice-Office of Insurance Fraud Prosecutor determined that Murphy falsely advised Medicaid that his income level qualified him to enroll in the FamilyCare program sponsored by Medicaid. The investigation further determined that the income and profits Murphy received from that business far exceeded the \$25,071 per year income limit necessary to qualify for FamilyCare.

- One hundred forty-seven (147) complaints alleging tax evasion were evaluated from July through September 2005 in the Office of Criminal Investigation.
- During the same period, one hundred thirteen (113) charges were filed in court and twenty-four (24) arrests were made in thirty-eight (38) cases involving violations of the Cigarette Tax Act. 1,223.6 cartons of untaxed cigarettes, having a total value of \$76,132.39 and including 396.3 cartons bearing counterfeit New Jersey tax revenue stamps, were seized. □

Tax Briefs

Gross Income Tax

Proof of Payment of Estimated Tax Made by Nonresident Seller of New Jersey Real Estate — The question was raised as to what form of receipt, if any, is to be given to a nonresident seller of New Jersey real estate as proof of payment of estimated gross income tax for reference when filing a nonresident gross income tax return.

Estimated tax must be paid by the nonresident seller of a property before a deed can be recorded, but there is nothing in the law requiring that a receipt for the tax paid be provided to the seller. The seller can request that the settlement agent forward a copy of the recorded deed and completed GIT/REP form (GIT/REP-1, Nonresident Seller's Tax Declaration, or GIT/REP-2, Nonresident Seller's Tax Prepayment Receipt) which the seller gave to the buyer at closing. However, the agent is not required to comply with this request. The payment of estimated tax by the nonresident seller, which can be made in advance or at the time of closing, is documented as follows:

Prepayment made at a Division regional office. If a nonresident seller chooses to pay the estimated tax prior to closing, the seller goes to a Division of Taxation regional office, completes Forms GIT/REP-2 and NJ-1040-ES (New Jersey Gross Income Tax Declaration of Estimated Tax Voucher), and makes payment (by check or money order only). The original GIT/REP-2 with the Division's raised seal is given to the seller to provide to the buyer or settlement agent at closing. The GIT/REP-2 and the deed are then forwarded to the county clerk for recording.

If the seller paid by check, the cancelled check is proof of payment. The seller may also make a copy of the GIT/REP-2 form as proof of actual payment made in the Division's regional office.

Payment made at closing. Alternatively, the seller may complete Forms GIT/REP-1 and NJ-1040-ES and give them, along with the

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estimated tax payment, to the buyer or settlement agent at closing. The forms, payment, and deed are then forwarded to the county clerk for recording.

The county clerk may or may not issue a receipt to the settlement agent for the estimated tax payment. The seller may request a copy of the completed GIT/REP-1 form from the settlement agent; however, the copy does not prove actual payment. The seller may give the agent a check at closing in order to get back the cancelled check as proof of payment, but the check may not reflect the actual amount of the estimated payment. The settlement agent usually deducts closing costs, realty transfer fees, etc. from the gross amount due from the seller and then makes disbursements, including the estimated tax payment, out of the agent's trust account set up exclusively as the conduit for real estate disbursement payments.

Resolution Funding Corporation Bonds — The Resolution Funding Corporation is a government agency established by Congress in 1989 to issue bailout bonds and raise funds for the activities of the Resolution Trust Corporation, as well as to administer struggling institutions inherited from the disbanded Federal Savings and Loan Corporation. The Resolution Funding Corporation is established under the same Federal law (Title 12, Chapter 11) as the Federal Home Loan Banks in the United States Code.

New Jersey exempts the interest and gains received from obligations of the State of New Jersey and the Federal Government from gross income tax. N.J.S.A. 54A:6-14. Specifically, pursuant to N.J.S.A. 54A:5-1(c) and

N.J.S.A. 54A:6-14, gross income does not include gains and interest derived from: (1) obligations of New Jersey or any of its political subdivisions, agencies, authorities, commissions, instrumentalities and public corporations (including such corporations created or existing under an interstate agreement or compact); and (2) obligations free from State or local taxation under any Federal or New Jersey law.

As the Federal Home Loan Bank is treated as an agency of the United States whose obligations are exempt from New Jersey gross income tax, the Resolution Funding Corporation is treated in a similar manner, and its obligations are considered exempt from gross income tax under N.J.S.A. 54A:6-14 both as to the interest and gains to the same extent as any obligation issued by the Federal Home Loan Bank.

Medical Malpractice Fund Assessments

2005 Attorney Fee Mailing — The New Jersey Medical Care Access and Responsibility and Patients First Act (P.L. 2004, c.17) assesses an annual surcharge of \$3 per employee for all employers who are subject to the New Jersey unemployment compensation law. In addition there is a \$75 fee for all State licensed physicians, podiatrists, chiropractors, dentists, optometrists, and attorneys. The Division of Taxation is responsible for collection of the annual \$75 fee from attorneys only. The fee expires in three years and will be collected for 2004, 2005, and 2006. The 2005 attorney fee assessment was mailed by the Division in December 2005.

The fee applies to all attorneys licensed to practice law in New Jersey except those attorneys: (1)

constitutionally or statutorily barred from the practice of law; (2) that can show that they do not maintain a bona fide office in New Jersey for the practice of law; (3) who have retired completely from the practice of law; (4) on full-time duty in the armed forces, VISTA, or the Peace Corps and not engaged in the practice of law; (5) ineligible to practice law because they have not made their New Jersey Lawyers' Fund for Client Protection payment; or (6) newly admitted to the bar that have not practiced law for at least one year.

All revenues from the surcharges and fees are deposited into the Medical Malpractice Liability Insurance Premium Assistance Fund. The fund is administered by the New Jersey Department of Banking and Insurance and is used for a variety of health care purposes, including providing relief towards the payment of medical malpractice liability insurance premiums to certain health care providers in this State and providing payments to hospitals as charity care subsidies.

Inquiries regarding payments made from the fund should be directed to the New Jersey Department of Banking and Insurance at 609-777-9470. Inquiries regarding the attorney fee should be directed to the Regulatory Services Branch, Division of Taxation, 609-292-5994.

Miscellaneous

Business Registration Requirement: Bid Threshold — The public contracting law, P.L. 2004, c.57, which went into effect September 1, 2004, requires business organizations that provide goods or services to public entities to obtain proof of

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business registration. Businesses located outside of New Jersey are not exempt from this requirement.

However, if the dollar amount of the cost of providing goods or services in the aggregate on an annual basis is below the 15% bid threshold level, then the governmental entity may waive the business registration certificate requirement by administrative procedures established by the Department of Community Affairs, Division of Local Government Services, along with the Divisions of Taxation and Revenue in the Department of Treasury.

Sales and Use Tax

Chemical and Catalyst Exemption

— The Division responded to an inquiry regarding whether the purchase of dry ice is exempt from tax under N.J.S.A. 54:32-8.20.

The taxpayer provided sterilization services for the producers of single-use medical devices. One of the items processed are single-use thermometers. Due to the heat that is generated during sterilization (which would activate the thermometers and render them useless), the thermometers must be packed in dry ice during the sterilization process.

Receipts from sales of materials, such as chemicals and catalysts, used to induce or cause a refining or chemical process, where such materials are an integral or essential part of the processing operation, but do not become a component part of the finished product, are exempt from the tax imposed under the Sales and Use Tax Act. N.J.S.A. 54:32B-8.20.

The term “finished product” used in the above exemption does not

contemplate the furnishing of a service. Therefore, since sterilization is a service rather than the sale of tangible personal property and, as such, is not a “finished product” for purposes of the catalyst exemption, the dry ice used during the sterilization process is not exempt from sales and use tax pursuant to the above exemption.

Interior Decorators — The Division views separately stated interior design or decorator services as a professional service transaction which is exempt from sales tax under N.J.S.A. 54:32B-2(e)(4)(A). If the decorator also sells tangible property to the customer, such charges are subject to tax pursuant to N.J.S.A. 54:32B-3(a). Interior decorators registered in New Jersey may use a New Jersey Resale Certificate (Form ST-3) to purchase tangible personal property intended for resale in its present form or which will be incorporated into other property intended for sale. Sales tax is collected from the decorator’s customer when these items are sold at retail.

Thus, when an interior decorator purchases property which will be resold to their customer, the interior decorator issues Form ST-3 to either the wholesaler or manufacturer. This exempts the interior decorator from the sales tax on the purchase.

The definition of “receipt” does not allow a deduction for expenses of the seller. N.J.S.A. 54:32B-2(d). Thus, expenses incurred in connection with the taxable sale of property (e.g., procurement fees) are also subject to tax. Expenses that directly relate to separately stated and non-taxable design/consulting services are not subject to tax.

Leases: No Further Use for ST-40 Under Streamlined Sales Tax Legislation

— The Lessor Certification, Form ST-40, was previously used when it was the lessors who were legally obligated to pay tax on leases and the lessors were not permitted to charge the lessees sales tax on a lease. By giving the customer

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Practitioners’ E-File Mandate

The New Jersey Division of Taxation requires any tax practitioner who prepared or filed 200 or more 2004 New Jersey resident income tax returns (Form NJ-1040) to file all their clients’ 2005 New Jersey resident income tax returns electronically. More information is available at:

[E-File Mandate](#)

[Frequently Asked Questions](#)

[Opt Out Request Form, NJ-1040-O](#)

[Requirements for Using Opt Out Form](#)

If you have questions concerning the E-File Mandate, call the Division of Taxation at 609-943-5000 or [email us](mailto:nj.taxation@treas.state.nj.us) at nj.taxation@treas.state.nj.us.

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(lessee) a completed Form ST-40, a lessor was affirming that he would, in fact, pay this tax directly to the Division of Taxation, i.e., the lessee would not be responsible for the tax.

Under the amended sales and use tax provisions included in the Streamlined Sales and Use Tax Agreement legislation, the lessor must now *collect* sales tax from the lessee on both short-term (six months or less) and extended-term (more than six months) rentals and leases. Therefore, there is no further need for the ST-40 in leases beginning on or after October 1, 2005. Lessors should not use the ST-40 in any leases beginning on or after that date. □

In Our Courts

Administration

Res Judicata – *Hamburg Music Corp. v. Robert Winter; Robert K. Thompson; David M. Gavin; Ronald Cavanaugh; Cheryl Fulmer; Harold Fox; Thomas McDonald; John Doe*, decided September 8, 2005; United States Court of Appeals for the Third Circuit No. 04-2738.

This is an appeal from Hamburg's complaint in the United States District Court for the District of New Jersey claiming that its due process rights were violated because of the named defendants' seizure and sale of its liquor license at auction without advance notice.

Previously, the New Jersey State Tax Court dismissed Hamburg's complaint against the Division of Taxation because the complaint was untimely. On appeal to the Appellate Division of the Superior Court, the Appellate Division affirmed the Tax Court's dismissal noting that

Hamburg presented no factual foundation that its procedural due process rights were violated by the Division of Taxation's actions. Hamburg then filed a complaint against the above named defendants with the District Court, which dismissed the complaint for failure to prosecute. On a motion to reinstate the complaint, the District Court opined that even if the complaint was reinstated that it would be dismissed on grounds of res judicata or qualified immunity.

The Third Circuit ruled that the District Court did not abuse its discretion by refusing to reinstate the complaint and that the complaint presumably would have been dismissed on res judicata grounds because the New Jersey courts dealt with the same factual and legal arguments raised in the Federal action. In concluding, the Court quoted language in a Seventh Circuit case that "[f]ederal litigation is not a repechage round for losers of earlier contests, or for those who overslept and missed the starters' gun."

Corporation Business Tax

Add-Back of PPGRT – *Ross Fogg Fuel Oil Co. v. Director, Division of Taxation*, decided June 7, 2005; Tax Court No. 006544-2003.

The Division added back the petroleum products gross receipts tax (PPGRT) that plaintiff deducted in arriving at its reported taxable income for tax years 2000 and 2001.

In relevant part, N.J.S.A. 54:10A-4(k)(2)(C) states that New Jersey entire net income shall be determined without deducting taxes paid or accrued (1) to a state or a political subdivision thereof that are measured by profits or income, business presence, or business activity and (2) for the tax imposed by this act.

The Court inquired into whether the corporation business tax (CBT) required an add-back of New Jersey taxes other than the CBT itself and whether the term "a state" referred only to states other than New Jersey or included New Jersey. The legislative history indicated that

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A sample electronic check form. It includes fields for 'Pay to the order of' (with a sample name and address), 'Date', 'Amount' (with a sample amount of \$1234.56), 'Routing number', and 'Account number'. There is a 'SAMPLE' watermark across the center. A note at the bottom says 'Do not include the check number'.

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N.J.S.A. 54:10A-4(k)(2)(C) was passed to equalize the tax burden on corporations doing business only in New Jersey. To effect that purpose, “a state” meant states other than New Jersey. Therefore, the Court determined that the add-back of taxes paid to “a state” did not include taxes paid to New Jersey, other than the CBT. The Court also reasoned that the PPGRT would not be “added-back” on the grounds it was similar to an excise or sales tax and was not a tax on “profits or income, or business presence or business activity” that was required by statute. Consequently, the Division’s assessment was dismissed.

Litter Control Tax

Paper Products – *Random House, Inc. v. Director, Division of Taxation*, decided September 13, 2005; Tax Court No. 006262-2003.

The Division assessed litter control tax on plaintiff publisher’s sales of hardcover and softcover books to wholesalers, distributors, and retailers for tax years 1993–2000.

The dispositive issue was whether plaintiff’s books are “paper products” and thereby “litter-generating products” that are subject to tax. The Division argued that the term “paper products” included books as they are made wholly or primarily of paper.

The Court decided that the term “paper products” as defined in N.J.S.A. 13:1E-94(e)(12) was not to be read literally. Finding that the Division recognized that not all paper products were intended to be “litter-generating products” and even excluded newspapers and magazines from the definition of paper products, the Court compared books to newspapers, magazines,

and other products on paper. The Court determined that the value of the paper was secondary to the value of the content that was on the paper and that the main function of the paper, binding, and book jacket was to contain the text or other information sought by the book purchaser. Therefore, the Court determined that the books are not paper products and not subject to the litter control tax.

The Division appealed this decision to the Appellate Division.

Realty Transfer Fee

Senior Citizen Exemption – *Norman and Thalia B. Terrell v. Director, Division of Taxation*, decided May 10, 2005; Tax Court No. 004258-2000.

Plaintiffs created and appointed themselves the trustees of the Terrell Family Trust. In January 1995 the plaintiffs transferred a property, known as 214 Windsor Avenue, Cape May, New Jersey, by deed to this trust. In May 2000 the trust as grantor sold this property to grantees Cynthia and George Yesgiosh, Jr. for \$335,000. The affidavit of consideration attached to the deed requested a partial exemption from the realty transfer fee stating that the grantor is a senior citizen who owned and occupied the property at the time of sale. The Division denied the request.

N.J.S.A. 46:15-10.1(a)(1) grants a senior citizen, defined as age 62 or over who is a New Jersey resident, a partial exemption from the realty transfer fee on qualifying property.

The Court ruled that a trust cannot be a senior citizen as it is not a natural person. Furthermore, the Court found that the Legislature did not include senior citizens’ trusts on the exemption list. Consequently, the Court held that the senior citizen exemption did not apply to the sale of this property. □

In Our Legislature

Cigarette Tax

Minimum Age for Sales and Purchases — P.L. 2005, c.384, enacted January 15, 2006, and effective April 15, 2006, raises the minimum age for the sale and purchase of cigarettes from 18 to 19 years of age. It also imposes personal liability on employees of retail dealers that are licensed under the Cigarette Tax Act and specifies that they will be subject to penalties if they sell or provide tobacco products to a person younger than 19.

Corporation Business Tax

Tax Credit for Employing Handicapped Persons at Sheltered Workshops — P.L. 2005, c.318, enacted January 12, 2006, and effective immediately, applies to privilege periods and taxable years beginning after enactment.

The Act allows a credit against the corporation business tax or the gross income tax in an amount equal to 20% of the salary and wages paid by the taxpayer during the privilege

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Tax Relief for Hurricane Katrina/Rita Victims

For information on NJ tax relief for hurricane victims, go to:
www.state.nj.us/treasury/taxation/katrinarelieft.htm

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period or taxable year for the employment of a handicapped person who qualifies as an "extended employee" pursuant to N.J.S.A. 34:16-40 and who has worked for the taxpayer in a "sheltered workshop" arrangement for at least the minimum amount of time set forth in the Act. The credit may not exceed 50% of the tax liability otherwise due.

Tax Credit for Film Production Expenses — P.L. 2005, c.345, enacted January 12, 2006, and effective immediately, applies to qualified film production expenses incurred on or after the date of enactment. The credit provisions apply to privilege periods and taxable years beginning on or after July 1, 2005, and will expire with privilege periods and taxable years beginning after July 1, 2015.

"Qualified film production expenses" are expenses incurred in New Jersey for the production of a feature film or a television series or show of at least 15 minutes and intended for a national audience, and also include post-production costs incurred in New Jersey. Such expenses include, for example, wages paid to individuals employed in production, costs of editing, photography, sound synchronization, lighting, wardrobe, and facilities rental. Qualified expenses do not

include expenses incurred in marketing or advertising a film.

The Act allows a credit against corporation business tax in an amount equal to 20% of the qualified film production expenses paid by the taxpayer during the privilege period, provided that at least 60% of the total production expenses (other than post-production) will be for services performed or goods used in New Jersey, and provided that the principal photography begins within 150 days after the credit application is approved.

The Act allows a similar credit against the gross income tax. The credit is applied against the gross income tax otherwise due after other credits are applied. If the credit exceeds the amount of tax otherwise due, the excess credit will be treated as an overpayment.

Gross Income Tax

Treatment of Tax Payments Made By Pass-Through Entities on Behalf of the Owners — P.L. 2005, c.288, enacted January 9, 2006, and effective for privilege periods beginning on or after January 1, 2007, requires partners and other owners of pass-through entities (excluding qualified investment partnerships or investment clubs or entities listed on a United States stock exchange) to credit against their estimated gross income taxes certain payments that

the entities have made on their behalf.

Director's Authority to Extend Gross Income Tax Deadlines — P.L. 2005, c.297, enacted January 9, 2006, and effective immediately, authorizes the Director of the Division of Taxation to extend the gross income tax filing or payment deadlines to coincide with similar extended dates established for Federal personal income tax returns.

Checkoff for New Jersey World Trade Center Scholarship Fund — P.L. 2005, c.298, enacted January 9, 2006, effective immediately, and applicable to tax years beginning on or after January 1, 2006, allows taxpayers to donate to the New Jersey World Trade Center Scholarship Fund by specifying that a certain amount of their income tax overpayments should go to that fund or by enclosing a contribution with their gross income tax returns.

Tax Credit for Employing Handicapped Persons at Sheltered Workshops — P.L. 2005, c.318. See Corporation Business Tax.

Tax Credit for Film Production Expenses — P.L. 2005, c.345. See Corporation Business Tax.

Sales and Use Tax

Exemption for Sales of Energy to UEZ Businesses — P.L. 2005, c.374, enacted January 12, 2006, and effective immediately, amends the New Jersey Urban Enterprise Zones Act by extending eligibility for sales and use tax exemption on retail purchases of energy and utility services by those qualified UEZ businesses that employ at least 250 people (the previous threshold was 500 people), 50% of whom are

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directly employed in a manufacturing process, when the energy and utility purchased is for the exclusive use of the qualified business in the zone. The exemption is also extended to groups of two or more qualified UEZ businesses in a single "redevelopment area" (pursuant to N.J.S.A. 40A:12A-1 et seq.) when they collectively employ at least 250 people, at least 50% of them directly employed in a manufacturing process, and the energy and utility service is for the exclusive use of each of such qualified businesses.

The Act also extends the exemption to business facilities located within a county that qualifies for 50% sales tax exemption, under certain circumstances, pursuant to N.J.S.A. 54:32B-8.45 (currently Salem County), provided that the business certifies that it employs at least 50 people at the facility, at least 50% of whom are directly employed in a manufacturing process, and provided that the energy and utility services are consumed exclusively at that facility. □

Tax Calendar

The following three calendars provide listings of filing and payment dates for tax year 2005 (January 1, 2005 – December 31, 2005) and tax year 2006 (January 1, 2006 – December 31, 2006) for businesses and individuals:

- **Chronological List of Filing Deadlines** — This calendar is for use by both businesses and individuals. If you are responsible for a return that is not listed in this calendar, please refer to the instructions that accompanied the return, or contact the Customer Service Center at 609-292-6400 for the appropriate filing deadline.

[2005](#) [2006](#)

- **Alphabetical Summary of Due Dates by Tax Type**

[2005](#) [2006](#)

- **Payment Dates for Weekly Payers** — An employer or other withholder of New Jersey gross income tax is designated a "weekly payer" if the amount of tax they withheld during the previous tax year was \$10,000 or more.

[2005](#) [2006](#) □



important phone numbers

Customer Service Ctr .. 609-292-6400
Automated Tax Info 1-800-323-4400
..... 609-826-4400
FAIR Rebate
Hotline 1-888-238-1233
Property Tax Reimbursement
Hotline 1-800-882-6597
Earned Income Tax Credit
Information 609-292-6400
NJ TaxFax 609-826-4500
Business Paperless Telefiling
System 1-877-829-2866
Speaker Programs 609-984-4101
Alcoholic Bev. Tax 609-984-4123
Corp. Liens, Mergers, Withdrawals
& Dissolutions 609-292-5323
Director's Office 609-292-5185
Inheritance Tax 609-292-5033
Local Property Tax 609-292-7221
Motor Fuels Tax
Refunds 609-292-7018
Public Utility Tax 609-633-2576